

FACTSHEET

TITLE: **USE PERMIT No. 150B**, an amendment to **Appian Way, Phase II**, requested by DaNay Kalkowski on behalf of Eiger Corporation, to waive the maximum allowed height in the B-5 Planned Regional Business District from 40 feet to 60 feet, on property generally located at South 87th Street and Highway 2.

STAFF RECOMMENDATION: Conditional Approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/27/04 and 11/10/04
Administrative Action: 11/10/04

RECOMMENDATION: Conditional Approval (6-1: Carlson, Carroll, Krieser, Larson, Marvin and Bills-Strand voting 'yes'; Pearson voting 'no'; Sunderman and Taylor absent).

FINDINGS OF FACT:

1. This is a request to waive the maximum allowed height in the B-5 district from 40 feet to 60 feet on Lots 1, 2 and 3, Block 3, which are designated for hotels, business hotels, and specialty hotels in Appian Way, Phase II of the 84th and Highway 2 regional shopping center south of Highway 2. Lots 1 and 3 are designated for hotel use and Lot 2 is designated for specialty retail use; however, there is no proposed use for Lot 2 at this time.
2. The staff recommendation of conditional approval is based on the "Analysis" as set forth on p.4, concluding that an adequate separation exists between the proposed hotels and potential future development beyond the limits of this commercial development to mitigate the impact of the increased height.
3. On October 27, 2004, the public hearing was deferred at the request of the applicant in response to opposition from the residents of Amber Hills.
4. The applicant's testimony is found on p.7-8. The applicant believes that the impact to the surrounding neighbors is mitigated by physical distance as well as separation by outlots, 84th Street, the LES substation and railroad tracts (See Minutes, p.8). The applicant did meet with the Amber Hills neighbors but they continue to be opposed to the height increase.
5. The additional information submitted by the applicant at the continued public hearing is found on p.22-25.
6. Testimony in opposition is found on p.9, and the record consists of a petition in opposition bearing 18 signatures of residents in Amber Hills (p.26), and six letters in opposition to the increased height (p.27-34).
7. The applicant's response to the opposition is found on p.10.
8. On November 10, 2004, the majority of the Planning Commission agreed with the staff recommendation and voted 6-1 to recommend conditional approval, as set forth in the staff report dated October 15, 2004; Pearson dissenting (See Minutes, p.11).
9. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: November 19, 2004

REVIEWED BY: _____

DATE: November 19, 2004

REFERENCE NUMBER: FS\CC\2004\UP.150B

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for October 27, 2004 PLANNING COMMISSION MEETING

P.A.S.: Use Permit #150B - Appian Way Phase II

PROPOSAL: To waive the maximum allowed height in the B-5 district from 40' to 60' on Lots 1, 2, and 3, Block 3 which are designated for hotels, business hotels, and specialty hotels.

LOCATION: South 87th Street and Highway 2.

LAND AREA: Approximately 44.86 acres (entire area of the use permit).

CONCLUSION: An adequate separation exists between the proposed hotels and potential future development beyond the limits of this commercial development to mitigate the impact of the increased height.

RECOMMENDATION:	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached legal description.

EXISTING ZONING: B-5 Planned Regional Business

SURROUNDING LAND USE AND ZONING:

North:	Regional Shopping Center	B5
South:	Agriculture, Residential	AG
East:	Commercial	H-4
West:	Agriculture, Residential	AG & AGR

ASSOCIATED HISTORY:

August 9, 2004 - Change of Zone #04039 from H-4 to B-5, Special Permit #2046A for Planned Service Commercial in H-4, and Use Permit #150A - Appian Way Phase II were approved revising the street layout, and reducing the area in H-4 and increasing the area in B-5.

April 16, 2004 - The final plat of Appian Way Phase II Addition was approved creating 2 lots and eight outlots.

March 15, 2004 - , Annexation #03002, Change of Zone #3411, Special Permit #2046, and Use Permit #150 to allow 357,500 square feet of commercial and retail floor area (290,000 square feet on eight lots in B-5; 67,500 square feet on five lots in H-4).

November 5, 2001 - The annexation agreement covering the land on both sides of Highway 2 at South 91st Street was approved.

November 5, 2001 - The preliminary plat and use permit for Appian Way (now Prairie Lakes) was approved north of Highway 2.

March 26, 2001 - The Southeast Lincoln/Highway 2 Subarea Plan was approved.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F95 - Bicycle and Trail Standards for Developing Areas - The Plan calls for the trail system to extend along both South 91st Street and the Omaha Public Power rail line.

Page F156 - Subarea Planning - Southeast Lincoln/Highway 2 Subarea Plan.

Southeast Lincoln/Highway 2 Subarea Plan:

Figure 2 - Designates office, service and residential transition uses for this site.

Page 9 - Promote a Desirable Entryway - Calls for a 400' wide open space corridor along this section of Highway 2.

Page 9 - Designates a regional shopping center at this location.

Page 10 - Commercial transition - Within commercial areas, office and lower intensity uses along with appropriate buffer areas should be developed as a transition to adjacent residential uses.

Page 13 - Entryway Corridor - To preserve the entryway corridor, the land use and transportation decisions are equally important as landscaping or architectural standards.

Page 57 - The Greenprint Challenge: Implementation Principles

-Obtain reasonably constrained regulations – Maintaining a balance between the natural and human built environment is always a delicate one. Planning policy and regulatory approaches employed in achieving the Plan's Vision and Greenprint Challenge should strive to be effective, tempered, pragmatic, circumscribed, and respectful of private property rights.

-Prevent the creation of a "wall-to-wall city" through the use of green space partitions – As cities and villages expand, establishing corridors and districts of green should be part of the growth process. This often requires the advance delineation of these areas and the means for securing their on going maintenance.

-Establish effective incentives for natural resource feature preservation Securing the long term permanence of green space is a basic dilemma in natural resources planning. The use of "green space development incentives" (e.g., setting aside non-buildable areas, creating green space preserves, density bonuses) should be a primary consideration in implementing this Plan.

ANALYSIS:

1. Hotels have been shown as part of the use permit since the original approval. The applicant states he is working with two hotels interested in locating in this development whose building plans exceed the maximum allowed height of 40' for the B-5 district.
2. This request will allow the maximum height to be increased from 40' to 60' on Lots 1, 2, and 3, Block 1, which lie along the south boundary of the development. Lots 1, 2, and 3 are bounded by outlots dedicated as open space on the east and west, by both an outlot and active railroad line to the south, and by other lots within the commercial center to the north which are designated for various commercial and retail uses.
3. The B-5 Planned Regional Business district was designed to accommodate larger shopping centers while ensuring compatibility with surrounding uses. The height and area regulations can be varied when it can be demonstrated that either the impact upon surrounding properties can be mitigated, or that it only affects those properties internal to the development.
4. The applicant notes that no building constructed on these three lots will be closer than 180' to potential uses south of the railroad. This is due to a 100' wide railroad right-of-way, a 50' wide undevelopable outlot, and a 30' sanitary sewer easement.
5. There is no applicable standard for a setback-to-height ratio in the Zoning Ordinance. However, the Design Standards for community unit plans do require apartment buildings to be setback from property lines a distance equal to, or greater than their height. Using that 1:1 ratio as a basis for comparison, this request provides a 3:1 ratio assuming the buildings are built to the maximum allowed height being requested.
6. Height and area regulations primarily ensure compatibility of scale among uses and provide for adequate light and open space between buildings. A 180' wide separation between the proposed hotels and any future development to the south adequately provides for these issues. As a result, allowing the proposed hotels to be built to 60' will not have a significant impact upon the present or future development potential of adjacent lands.

CONDITIONS:

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
 - 1.1 Revise the site plan as follows:
 - 1.1.1 The surveyor's and engineer's certificates must be signed.

- 1.1.2 The note indicating the land area under “DEVELOPMENT AREA” modified to either state the total area for the development, or provide a breakdown for both the use permit (44.86 acres) and the special permit for planned service commercial in H-4 (8.67 acres).

2. This approval adjusts the maximum height in the B-5 district from 40' to 60' on Lots 1, 2, and 3, Block 3.

General:

3. Before receiving building permits:
 - 3.1 The permittee shall have submitted a revised and reproducible final plan including 6 copies and the plans are acceptable.
 - 3.2 The construction plans shall comply with the approved plans.
 - 3.3 Final Plats shall be approved by the Planning Director consistent with the approved use permit.

Standard:

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying the buildings all development and construction shall have been completed in compliance with the approved plans.
 - 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established association approved by the City Attorney.
 - 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant.

5. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by:

Brian Will, AICP, 441-6362, bwill@ci.lincoln.ne.us

Planner

October 15, 2004

APPLICANT: Eiger Corporation
RR#1, Box 93A
Adams, NE 68301
(402) 432-8975

CONTACT: DaNay Kalkowski
Seacrest and Kalkowski
1111 Lincoln Mall
Lincoln, NE 68508
(402) 435-6000

OWNER: Andermatt, LLC
RR#1, Box 93A
Adams, NE 68301

USE PERMIT NO. 150B

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 27, 2004

Members present: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand; Marvin, Sunderman and Krieser absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: Carroll reported a phone conversation with the landowner.

This application was removed from the Consent Agenda due to correspondence in opposition.

Brian Will of Planning staff submitted a letter in opposition from the property owner at 7901 S. 78th Street. The record also contains a letter in opposition from the property owner at 8201 Amber Hill Road.

Proponents

1. **DaNay Kalkowski** appeared on behalf of the applicant, **Eiger Corp.** She requested a two-week deferral for the opportunity to meet with the neighbors and address their concerns.

Larson moved to defer two weeks, with continued public hearing and action scheduled for November 10, 2004, seconded by Taylor and carried 6-0: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand voting 'yes'; Marvin, Sunderman and Krieser absent.

There was no other testimony.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 10, 2004

Members present: Carlson, Pearson, Carroll, Marvin, Larson, Krieser and Bills-Strand; Sunderman and Taylor absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Brian Will of Planning staff submitted three additional letters in opposition.

Proponents

1. **DaNay Kalkowski** appeared on behalf of **Eiger Corp.**, the owner and developer of Phase II of the 84th & Hwy 2 regional shopping center south of Hwy 2. This is a request to increase the permitted height on Lots 1, 2 and 3 of Block 1 (the south central three lots on the area south of Hwy

2) from 40' to 60'. Lots 1 and 3 are designated for hotel use and Lot 2 is designated for specialty retail use.

Lot 3 is currently under contract for a Best Western limited use hotel of three stories with 70 rooms and a pitched roof. The main portion of the building would be close to meeting the 40' requirement of the B-2 zoning district, but the building has an added architectural feature that extends 50' high. It is this architectural feature that requires the need for the waiver with respect to Lot 3.

With regard to Lot 1 (the larger lot), the developer is currently negotiating with a buyer who wants to construct a full service business hotel with restaurant, banquet facilities and meeting rooms, of four stories with 110 rooms. Kalkowski showed pictures of the prototypes. The building with the flat roof is shorter than the building with pitched roof, but the developer prefers the pitched roof because of the aesthetic characteristics. The need for the additional height on Lot 1 is aesthetics and the additional fourth story to add the provision of higher quality services.

There is no proposed use yet for Lot 2.

While this request is for a height waiver, Kalkowski believes that the impact to the surrounding neighbors is mitigated by a physical distance and separation from neighboring areas. The three lots are separated by a 309' wide outlot to the neighbors to the west as well as 84th Street. To the south is an LES easement which is nonbuildable and a nonbuildable outlot and railroad tracks measuring over 180 ft. To the east is a nonbuildable outlot, the LES substation and 91st Street. The overall framework of the location of the building mitigates the impact. The LES lines run from 84th Street on the south side of these lots. These buildings are part of the entire regional shopping center shown in the Comprehensive Plan to be over 1.9 million sq. ft., so it's part of a large retail center. The Walmart site is 22' higher than the base elevation for the proposed hotels, and then the building on WalMart sets up 40' on top of that 22' higher base. This developer does not believe the height of these hotels is going to be totally out of scale with the other buildings in the commercial shopping center.

Kalkowski stated that the developer sent out several information letters inviting neighbors to meet, and personally talked with some and met with two of the neighborhood groups, including the Cheney CIP, who did not express opposition. The developer also met with some neighbors from Amber Hill and those members have expressed opposition to the increase above 40'. She has not been contacted by any other neighbors in the area. The staff report does not indicate an impact on the surrounding uses.

Pearson inquired whether it is just the architectural element that goes beyond the 40' height on the building on Lot 3. Kalkowski believes it is very close to meeting the 40' except for the architectural feature. It is a little tower that provides some breakup of relief along the building. They would not need a waiver if they did not have the architectural feature on top of the building.

Pearson would like to see the footprint for the two prototypes. She would guess that the hotel developer has about four or five dozen of these prototypes. As a footprint, are they wanting to go up because there is not enough land? Is there no land available to make it meet the height restriction? Kalkowski suggested that if they wanted to expand outward instead of upward it may be possible, but they probably want to build their prototypes. They have full service

amenities, with banquet facilities and meeting rooms located on the lower floor, and then the next three floors are the three levels of rooms to go with their services. They do not want to buy any more land than they have to. Their prototype is the four story hotel.

Opposition

1. Tim Kirkpatrick, 8001 Amber Hill Road, testified in opposition. The Amber Hill development is located directly to the west and it is an existing neighborhood that has been there a number of years, and most of the owners are the original owners. One of the things that is nice about this neighborhood is that they are not the typical NIMBY group, but rather they have welcomed development over the years. They did meet with the developer about a year go after the Walmart and Menards came about and the attentions were turning to the south side of the street. They saw a plan that was extremely specific with regard to the streets, buffers, restaurants, C Store, TSC Store, etc. The properties closest to the neighborhood were shown and they were told the height of the hotels would be 40'. One of the ideas the neighbors came up with was that a good transition from a heavy commercial area to a residential area would be some type of commercial development of low use, such as an office complex. When that was explored, they were told that there was no way to keep all residential on one side and all commercial on the other side. A number of the neighbors have moved earth, brought in trees and relocated trees to accommodate what they thought was going to be a 40' building. The neighbors have since learned that 40' is not 40' if it has a pitched roof. Then comes the amendment to increase the height to add one or two more stories onto the building, and then in addition to that, they want to increase it to 60' and the pitched roof would be higher than the 60'.

Kirkpatrick does not believe that the 40' buildings transitioning to Amber Hills to the west should go up to 60' and then back down. These hotels will be lit with up-lights. This is not a good transition to a neighborhood. They can live with 40'. There are no pole signs allowed so the signs will be on the 60' building.

Kirkpatrick recalled that for years, Planning has said that this is the most attractive entrance into our city. Let's preserve it. We've seen a tremendous amount of development there, but what we have never seen is multiple story buildings of this height, and this is not a good time to start.

Staff questions

Pearson asked staff to explain the purpose of a height restriction in the zoning ordinance. Brian Will stated that the basic premise is attempting to maintain some sort of compatibility of scale among uses. It tries to limit the height so that there is not a really tall building next to a short building.

Pearson noted that the adjacent neighborhood is AGR zoning. Will clarified that the height restriction in AGR zoning is 35'.

Marvin referred to the bank on about 56th & Hwy 2 and inquired as to its height. Will believes the majority of the bank itself maybe exceeds the height limit by 1-2 feet and there was a waiver granted primarily for the cupola. The height limit in this O-3 district is 40'.

Pearson suggested that this application could be amended for Lot 3 to just extend the waiver for the architectural feature. Will stated that the Planning Commission can be as specific as they want. The requested waiver generally applies to these three lots to allow a height up to 60'.

Response by the Applicant

Kalkowski stated that she did review the West Gate Bank at 56th & Hwy 2 for comparison. The building is 46' tall and the waiver for the clock tower was 95', but that included a lightning rod on top. There was also a waiver to the Heart Hospital which increased the height from 35' up to 44'.

With respect to lighting on the buildings, Kalkowski pointed out that the B-5 zoning district is subject to environmental performance standards for outdoor night time lighting. Secondly, with respect to the whole entryway corridor, this developer agreed to grant a significant amount of green space along Hwy 2 in order to preserve a nice green space corridor coming into the city. There are some consistent design developments both north and south of the highway to make the buildings nicer and their appearance better with some sort of consistency.

With respect to the transition, Kalkowski submits that there is transition. We are talking about Lot 1. There are outlots along the entire west side, which provides 309' of open green space before you even get to 84th Street. That is some transition. To the south are the huge power lines that are going to be way taller than any 60' building, and we also have the railroad tracks. So it does not go from a commercial use directly to single family residential.

Kalkowski also pointed out that there has been no opposition from any of the other neighbors, i.e. Dunrovin Acres and Cheney. Cheney took the position that it was in keeping with the scale in the area. The question is really one of higher quality amenities and services for the city. A hotel providing a full range of services is something that would be contemplated in the B-5 zone. We are trying to add aesthetics to make the buildings look better.

Kalkowski believes it is an appropriate decision to have this type of use within a B-5 regional retail center.

Carroll inquired about landscaping in the outlots. Kalkowski stated that there is some detention area in there, but she did not know what additional trees or screens would be used.

Carroll inquired about the use for Lot 1, Block 4. Kalkowski believes it is shown as a restaurant use.

Marvin inquired about the signage on the hotel and whether it will be attached to the building. Kalkowski stated that the B-5 district allows wall signage for hotels or any building. She anticipates that most of the signage will be geared toward Highway 2. She does not believe the hotels use an extreme amount of wall signage.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

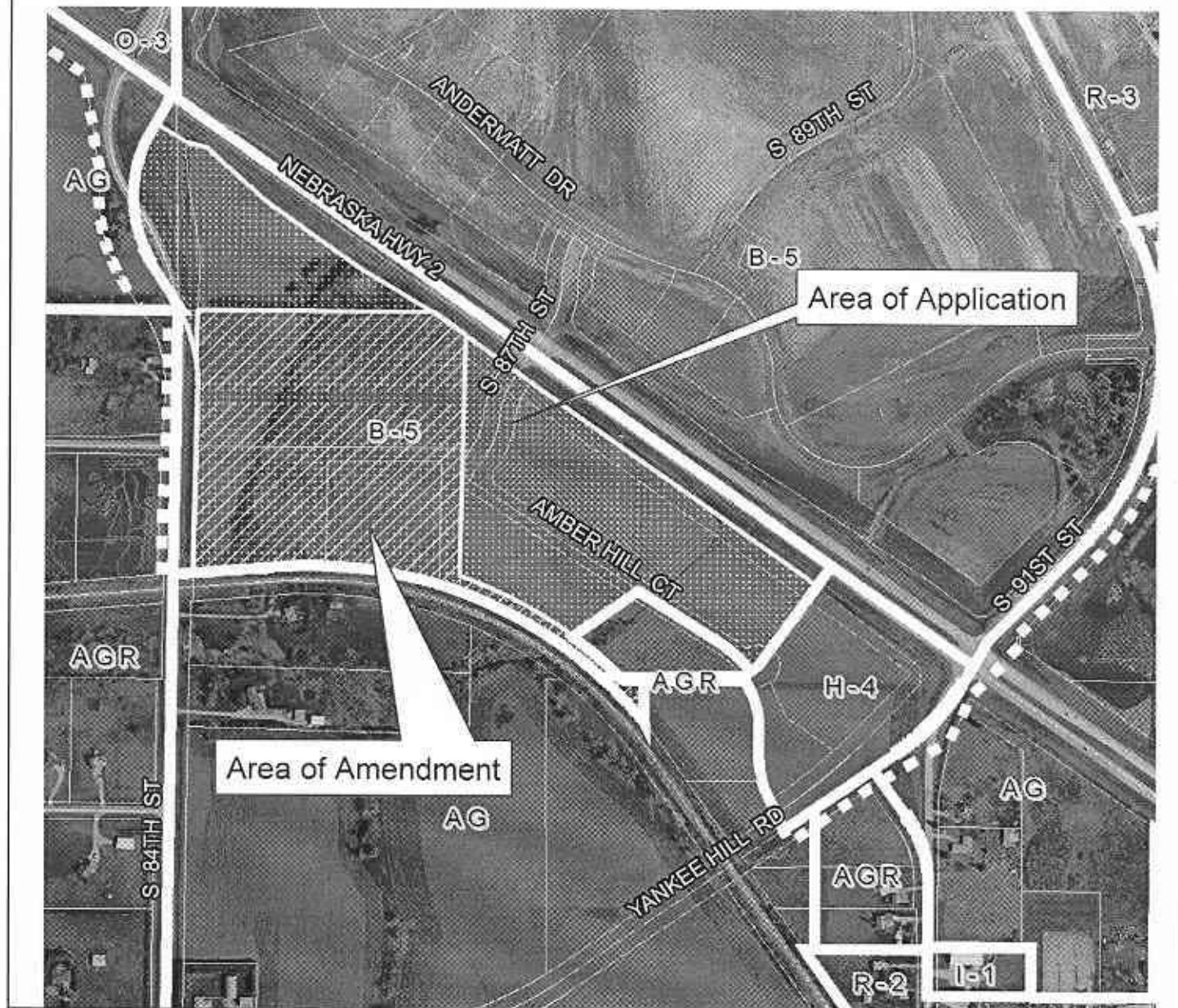
November 10, 2004

Carroll moved to approve the staff recommendation of conditional approval, seconded by Krieser.

Pearson stated that she voted against the development from the start and she continues to be in awe at the direction that this is taking. She is impressed if the developer has the support of Cheney because Cheney was here denouncing this at the previous approval. She will continue her non-support of this development because it is drawing away from the Downtown.

Carroll believes there is a need for hotels in this area, and to bring in a quality, full-service hotel is exceptional for the city. Sometimes you have to provide for something a little bit larger. This will benefit the Heart Hospital patient families.

Motion for conditional approval carried 6-1: Carlson, Carroll, Marvin, Larson, Krieser and Bills-Strand voting 'yes'; Pearson voting 'no'; Taylor and Sunderman absent. This is a recommendation to the City Council.

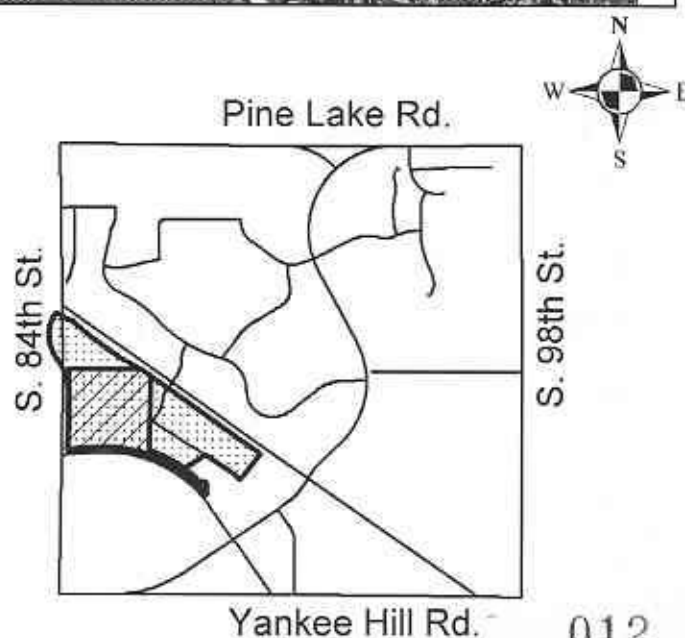


Use Permit #150B S 91st St. & Hwy #2

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 23 T09N R07E



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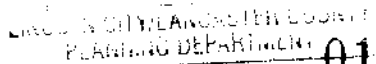
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PARKING RATIOS

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SURVEYOR'S CERTIFICATE

REGIONS ..



FORM 4-4 ZONE

[illegible]PERMIT LEGAL DESIGN
FOR B-S ZONING[illegible]

Case	Age	Sex	Height	Weight	Temp	Pulse	Respiration	Blood Pressure	Urine	Stool	Other
1	20	M	5' 10"	160	98.6	72	18	110/70	Normal	Normal	None
2	22	F	5' 8"	140	98.4	68	16	100/60	Normal	Normal	None
3	24	M	6' 0"	180	98.8	76	20	120/80	Normal	Normal	None
4	26	F	5' 6"	130	98.2	64	14	90/50	Normal	Normal	None
5	28	M	6' 2"	190	99.0	80	22	130/90	Normal	Normal	None
6	30	F	5' 4"	120	98.0	60	12	80/40	Normal	Normal	None
7	32	M	6' 4"	200	99.2	84	24	140/100	Normal	Normal	None
8	34	F	5' 2"	110	97.8	56	10	70/30	Normal	Normal	None
9	36	M	6' 6"	210	99.4	88	26	150/110	Normal	Normal	None
10	38	F	5' 0"	100	97.6	52	8	60/20	Normal	Normal	None
11	40	M	6' 8"	220	99.6	92	28	160/120	Normal	Normal	None
12	42	F	4' 10"	90	97.4	48	6	50/10	Normal	Normal	None
13	44	M	7' 0"	230	99.8	96	30	170/130	Normal	Normal	None
14	46	F	4' 8"	80	97.2	44	4	40/8	Normal	Normal	None
15	48	M	7' 2"	240	100.0	100	32	180/140	Normal	Normal	None
16	50	F	4' 6"	70	97.0	40	2	30/6	Normal	Normal	None
17	52	M	7' 4"	250	100.2	104	34	190/150	Normal	Normal	None
18	54	F	4' 4"	60	96.8	36	0	20/4	Normal	Normal	None
19	56	M	7' 6"	260	100.4	108	36	200/160	Normal	Normal	None
20	58	F	4' 2"	50	96.6	32	-2	10/2	Normal	Normal	None

USE PERMIT AND SPECIAL PERMIT SITE PLAN

07TH & HWY 2 DEVELOPMENT -LINCOLN, NEBRASKA
USE PERMIT AND SPECIAL PERMIT SITE PLAN

[illegible]

COURSE	ANALYSIS: CHEMISTRY, CLIMATE, JARVIS			COURSE
	ANALYSIS	CHEMISTRY	JARVIS	
251	300.00	457.44	234.27	232.50
252	400.00	277.95	164.24	240.94
253	400.00	159.34	176.50	277.02
254	300.00	307.65	161.37	258.43
255	300.00	377.75	143.78	144.00
256	300.00	377.75	143.78	236.31
257	300.00	407.00	238.50	238.50

[illegible]

ANALYSIS OF VARIANCE				ANALYSIS OF VARIANCE	
ANOVA				ANOVA	
Source	Sum of Squares	df	Mean Square	F	p-value
Between Groups	14.18	4	3.545	1.40	.2405
Within Groups	14.18	16	.88625		
Total	28.36	20			

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C1 USE DCU01 CONTINUED - COPY LGTH=IN (CONT.)
C11 BULK/NO CENTER OF TAPE(S) LENGTH
C21 BULK/NO CENTERING COPY - FRONT TAPE(S)

--- CHISTING WATER MAIN
--- PROPOSED WATER MAIN WITH HYDRANT
--- EXISTING SANITARY SEWER
--- PROPOSED SANITARY SEWER
--- PROPOSED LOT LINE WITH CONC. BION

AND L. S. FORDY HONOLULU

[illegible]

ARTICLE 13. UL'JICA LTD. & PUBLI:

PHILIP L. KATZ

2025.5.31
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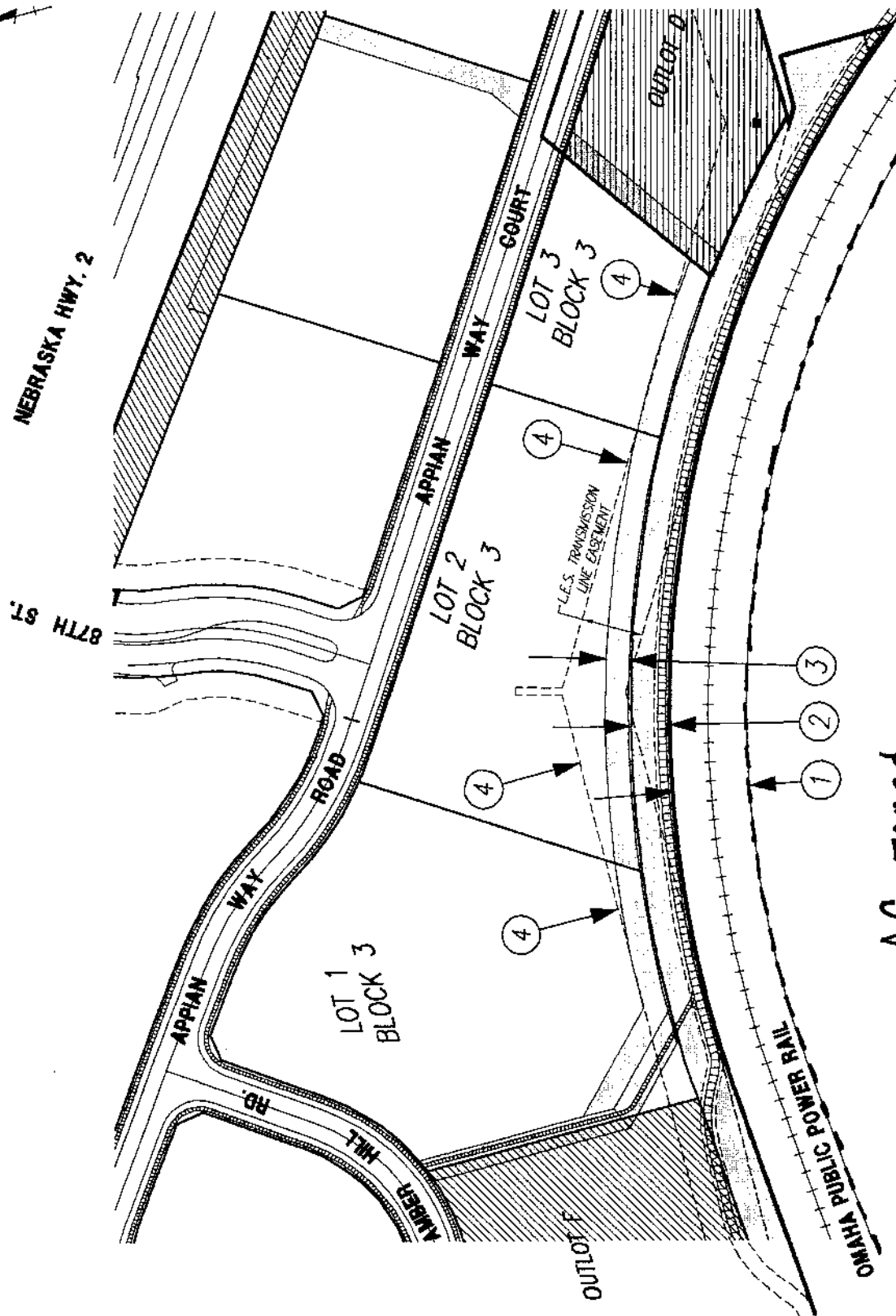
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1405.4 **WPHH, M. UM, NHH, LUYA IGA**

NOV 16 2004

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PLANNING DEPARTMENT

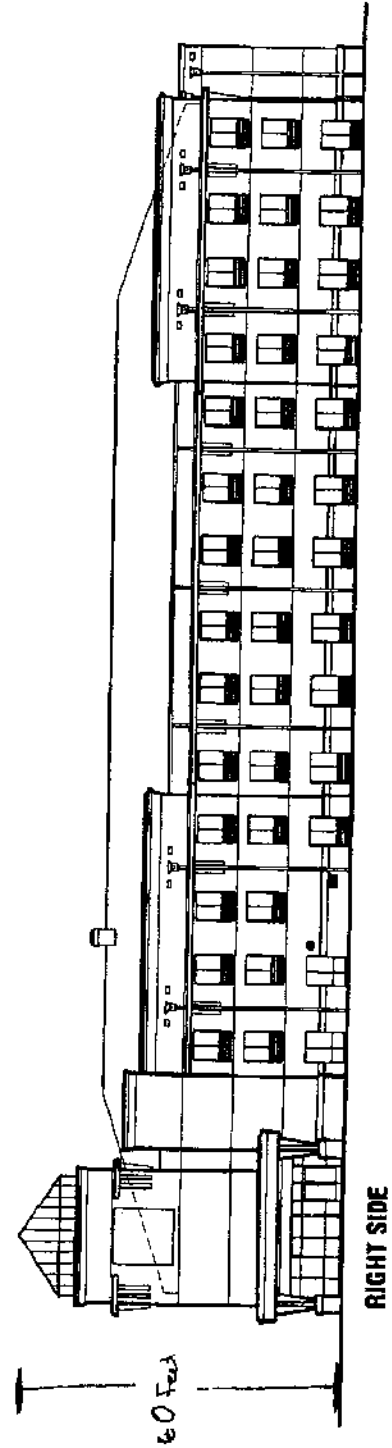
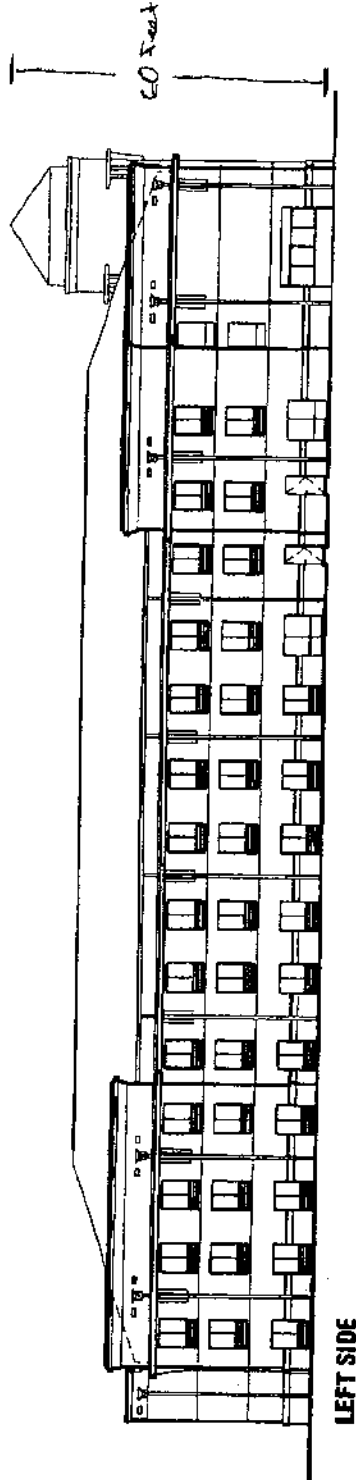
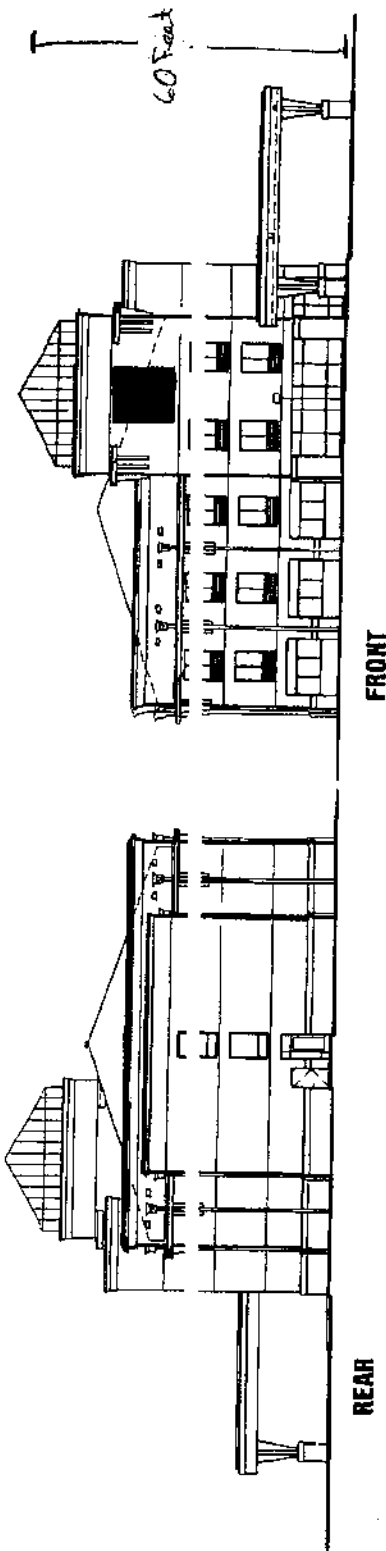


AG zoned
property

- ① 100' RAILROAD RIGHT-OF-WAY
- ② 50' OUTLOT E
- ③ 30' SANITARY SEWER EASEMENT
- ④ NORTH LINE OF L.E.S. TRANSMISSION LINE EASEMENT AND BUILDING SETBACK LINE

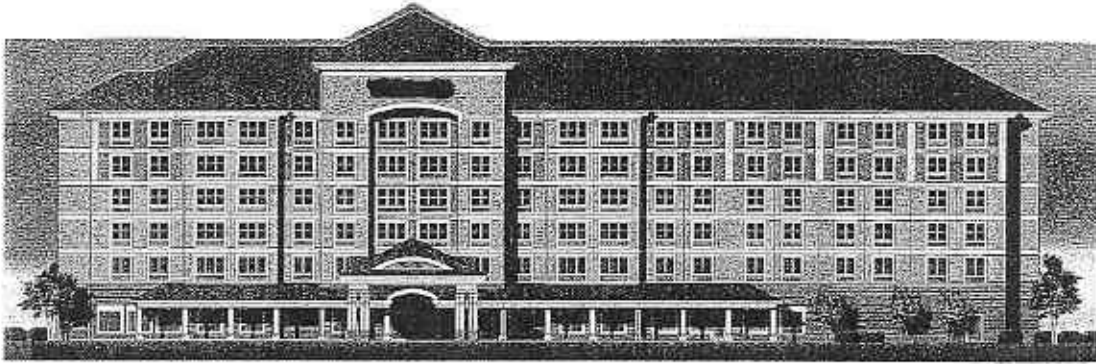
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SEP 30 2004
PLANNING DEPARTMENT

FOR REFERENCE ONLY



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SEP 30 2004
JACKSON COUNTY PLANNING DEPARTMENT



FOR REFERENCE ONLY



SEACREST & KALKOWSKI, P.C.

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LINCOLN, NEBRASKA 68508-3905

TELEPHONE (402) 435-6000
FACSIMILE (402) 435-6100

KENT SEACREST
E-MAIL: kent@sk-law.com

DANAY KALKOWSKI
E-MAIL: danay@sk-law.com

September 29, 2004

HAND DELIVERY

Marvin Krout
Planning Director
555 South 10th Street
Lincoln, NE 68508

RE: Height Waiver Request

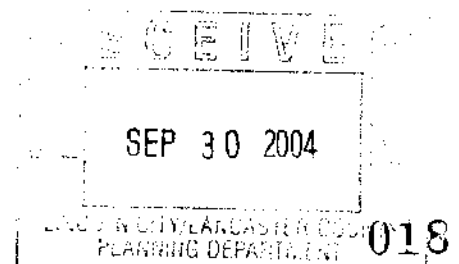
Dear Marvin:

Eiger Corp. is hereby requesting an Amendment to Use Permit #150A to increase the height restriction on Lots 1, 2 and 3, Block 3 from 40 feet to 60 feet. The uses identified on these Lots are Business Hotel, Specialty Retail and Hotel. Eiger Corp. is working with two separate hotels who desire to locate within the area. Both hotels require a waiver of the 40 foot height restriction imposed by the B-5 zone. Enclosed herein please find the following:

1. Application
2. Application fee of \$740.00
3. Six copies of the Site Plan
4. Three potential hotel buildings for illustrative purposes only

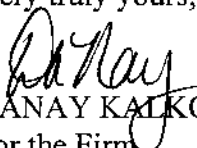
Any building constructed on Lots 1, 2 or 3 will be set back a minimum of 180 feet from the property line of the AG zoned property located directly to the south. Enclosed please find an Exhibit which shows the building set back line on the Lots in relation to the AG zoned property to the south. The buildable areas on the Lots are separated from the AG property to the south by a 100 foot railroad right-of-way, 50 foot outlot, 30 foot sanitary sewer easement and, in some cases, an even wider LES transmission line easement.

Eiger Corp. believes the separation from the property to the south, as well the Prairie Lake Village Protective Covenants in existence which govern the aesthetic quality of the buildings that can be built upon the Lots, protect the nearest neighbors from any adverse impact resulting from the height waiver.



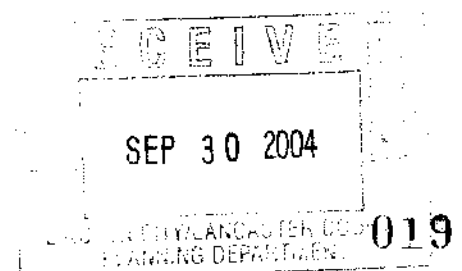
If you have any questions or need any additional information, please feel free to give me a call.

Very truly yours,


DANAY KALKOWSKI
For the Firm

Enclosures

cc: Kelvin Korver



**APPIAN WAY REGIONAL CENTER, PHASE 2
USE PERMIT LEGAL DESCRIPTION
FOR B-5 ZONING**

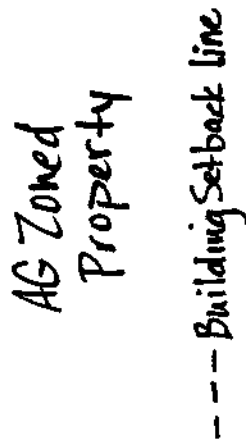
A TRACT OF LAND COMPOSED OF ALL OF LOTS 83, 114 AND 115, IRREGULAR TRACTS, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, A PART OF OUTLOT A, APPIAN WAY REGIONAL CENTER PHASE 2 ADDITION, ALL OF OUTLOT B, APPIAN WAY REGIONAL CENTER PHASE 2 ADDITION, A PART OF OUTLOT C, APPIAN WAY REGIONAL CENTER PHASE 2 ADDITION, ALL OF OUTLOTS E, F, G AND H, APPIAN WAY REGIONAL CENTER PHASE 2 ADDITION, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, ALL OF LOT 81, IRREGULAR TRACT, LOCATED IN THE NORTHWEST QUARTER OF SECTION 23, A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23 AND A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 22, ALL IN TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER SECTION 23; THENCE S 89°52'54" E, ASSUMED BEARING, ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER SECTION A DISTANCE OF 8.32 FEET TO THE FUTURE EASTERLY RIGHT OF WAY LINE OF SOUTH 84TH STREET AND THE POINT OF BEGINNING, SAID POINT ALSO BEING THE POINT OF CURVATURE OF A 585.00 FOOT RADIUS CURVE, CONCAVE TO THE WEST; THENCE NORTHWESTERLY ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 5°19'51" AN ARC DISTANCE OF 54.43 FEET, THE CHORD OF SAID CURVE BEARS N 29°31'49" W, A DISTANCE OF 54.41 FEET; THENCE N 32°11'45" W ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 136.19 FEET TO THE POINT OF CURVATURE OF A 465.00 FOOT RADIUS CURVE, CONCAVE TO THE EAST; THENCE NORTHERLY ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°50'15" AN ARC DISTANCE OF 39.26 FEET, THE CHORD OF SAID CURVE BEARS N 29°46'38" W, A DISTANCE OF 39.25 FEET; THENCE N 62°38'30" E ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 5.00 FEET TO A POINT ON A 460.00 FOOT RADIUS CURVE, CONCAVE TO THE EAST; THENCE NORTHERLY ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 56°22'59" AN ARC DISTANCE OF 452.67 FEET, THE CHORD OF SAID CURVE BEARS N 00°49'59" E, A DISTANCE OF 434.63 FEET; THENCE N 29°01'29" E ALONG SAID FUTURE EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 39.29 FEET TO THE INTERSECTION WITH THE FUTURE SOUTHERLY NEBRASKA HIGHWAY NO. 2 RIGHT OF WAY LINE; THENCE S 58°04'03" E ALONG SAID FUTURE SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 125.63 FEET TO AN INTERSECTION OF THE EXISTING SOUTHERLY RIGHT OF WAY LINE OF NEBRASKA HIGHWAY NO. 2 AND THE EASTERLY EXISTING SOUTH 84TH STREET RIGHT OF WAY LINE; THENCE S 74°45'16" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 74.68 FEET; THENCE S 48°10'50" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 301.81 FEET; THENCE S 54°27'15" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 400.00 FEET; THENCE S 58°59'08" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 290.85 FEET TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION; THENCE S 54°27'18" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1615.21 FEET; THENCE S 51°36'51" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 43.11 FEET; THENCE S 35°32'47" W, A DISTANCE OF 346.74 FEET; THENCE S 56°35'33" W, A DISTANCE OF 36.02 FEET TO THE POINT OF CURVATURE OF A 369.50 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°15'29" AN ARC DISTANCE OF 137.09 FEET, THE CHORD OF SAID CURVE BEARS N 46°26'38" W, A DISTANCE OF 136.31 FEET; THENCE N 57°04'22" W, A DISTANCE OF

APPIAN WAY REGIONAL CENTER, PHASE 2
USE PERMIT LEGAL DESCRIPTION
FOR B-5 ZONING

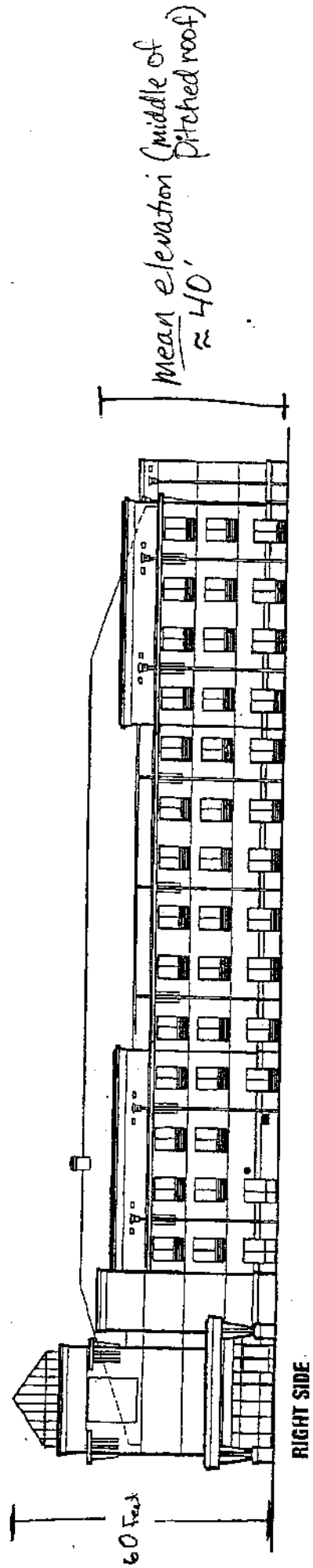
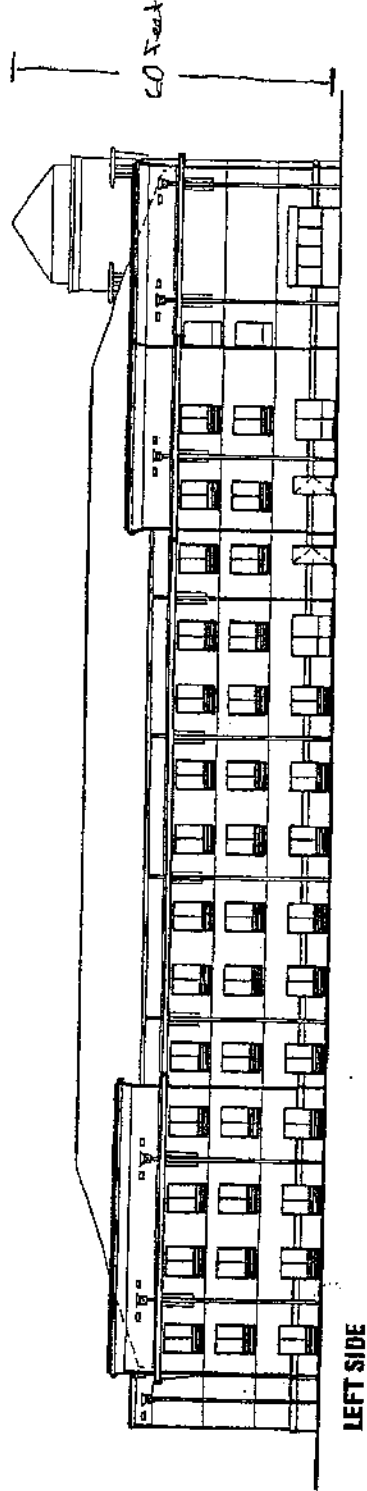
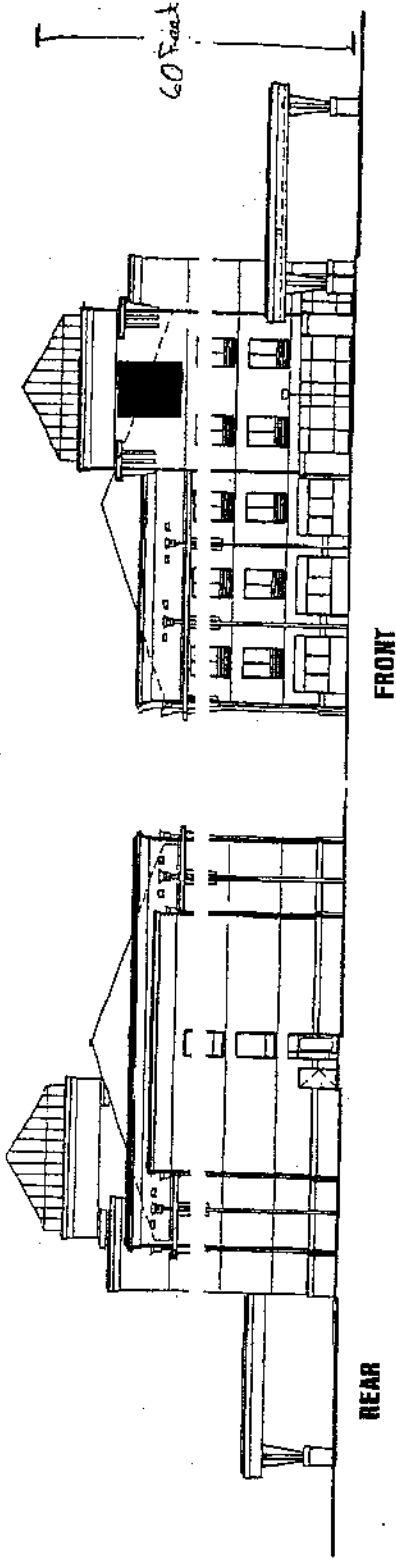
349.77 FEET; THENCE S 54°44'21" W, A DISTANCE OF 284.85 FEET TO THE POINT OF CURVATURE OF A 1544.43 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH; THENCE SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 08°29'28" AN ARC DISTANCE OF 228.88 FEET, THE CHORD OF SAID CURVE BEARS S 49°41'49" E, A DISTANCE OF 228.67 FEET TO A POINT ON THE SOUTHERLY LINE OF AN EXISTING LINCOLN ELECTRIC SYSTEM TRANSMISSION LINE EASEMENT RECORDED AS INSTRUMENT NUMBER 95-12607 AT THE LANCASTER COUNTY REGISTER OF DEEDS; THENCE S 89°01'14" W ALONG SAID EASEMENT LINE, A DISTANCE OF 10.53 FEET; THENCE S 59°00'27" E A DISTANCE OF 22.10 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER SECTION 23; THENCE N 89°58'00" E ALONG SAID QUARTER SECTION LINE, A DISTANCE OF 67.89 FEET; THENCE S 00°02'00" E A DISTANCE OF 146.74 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF THE OMAHA PUBLIC POWER DISTRICT'S RAILROAD LINE AND THE POINT OF CURVATURE OF A 1494.43 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH; THENCE NORTHWESTERLY ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 55°34'19" AN ARC DISTANCE OF 1449.47 FEET, THE CHORD OF SAID CURVE BEARS N 66°52'50" W, A DISTANCE OF 1393.32 FEET; THENCE S 85°20'00" W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 303.52 FEET TO THE EXISTING EASTERLY RIGHT OF WAY LINE OF 84TH STREET, SAID POINT LOCATED 70.00 EASTERLY OF, PERPENDICULAR MEASUREMENT, THE WEST LINE OF SAID SOUTHWEST QUARTER SECTION 23; THENCE N 00°52'06" E ALONG SAID EXISTING EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 167.34 FEET TO A CORNER OF SAID EASTERLY RIGHT OF WAY LINE; THENCE N 02°10'26" E ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 60.05 FEET; THENCE N 01°25'12" E ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 427.70 FEET TO THE POINT OF CURVATURE OF A 585.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE NORTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 08°25'33" AND ARC DISTANCE OF 86.03 FEET, THE CHORD OF SAID CURVE BEARS N 02°47'39" W, A DISTANCE OF 85.95 FEET TO A CORNER OF SAID LOT 115; THENCE CONTINUING NORTHERLY ALONG THE FUTURE EASTERLY RIGHT-OF-WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 19°51'29" AND ARC DISTANCE OF 202.75 FEET, THE CHORD OF SAID CURVE BEARS N 16°56'10" W, A DISTANCE OF 201.74 FEET TO THE SOUTH LINE OF SAID NORTHWEST QUARTER SECTION AND THE POINT OF BEGINNING, CONTAINING AN AREA OF 1,953,951.67 SQUARE FEET (44.86 ACRES) MORE OR LESS.

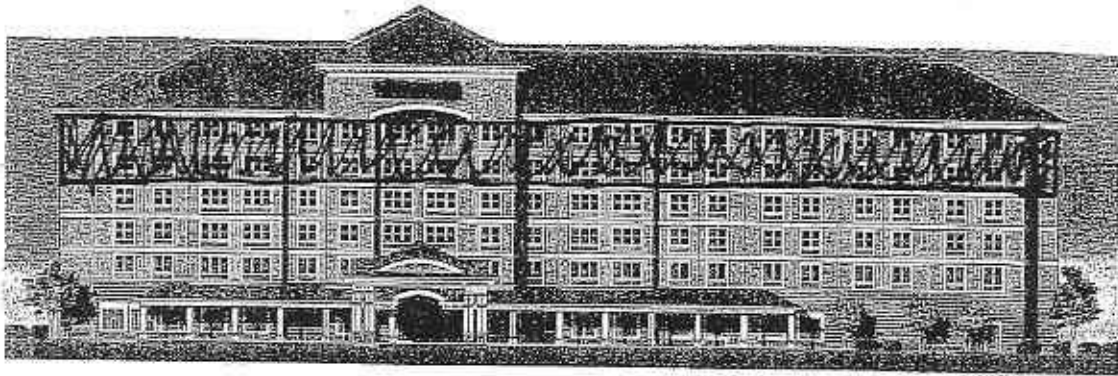
USE PERMIT AND SPECIAL PERMIT SITE PLAN



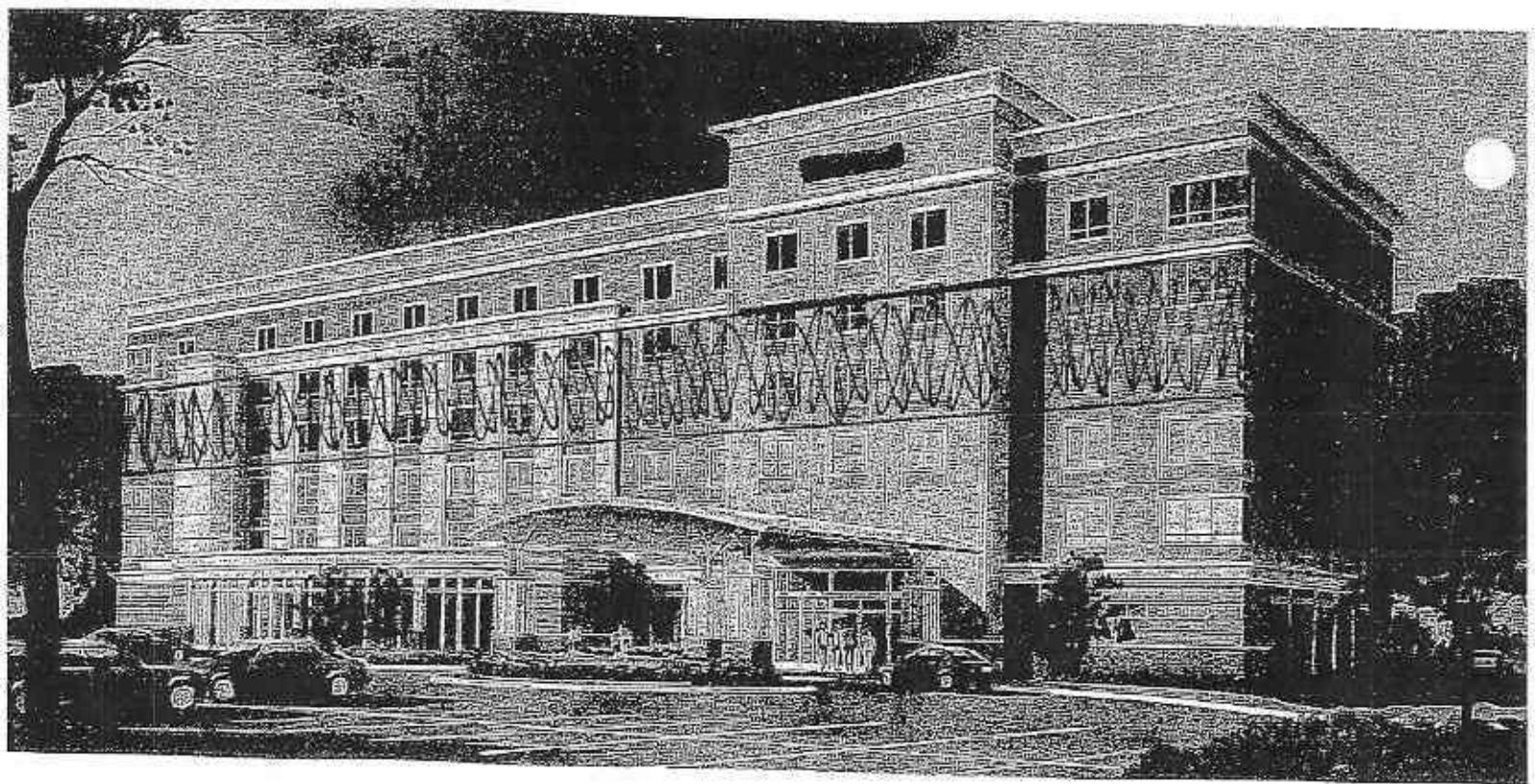
SUBMITTED AT CONTINUED PUBLIC
HEARING BEFORE PLANNING COMMISSION
BY THE APPLICANT: 11/10/04

Lot 3,
Block 3





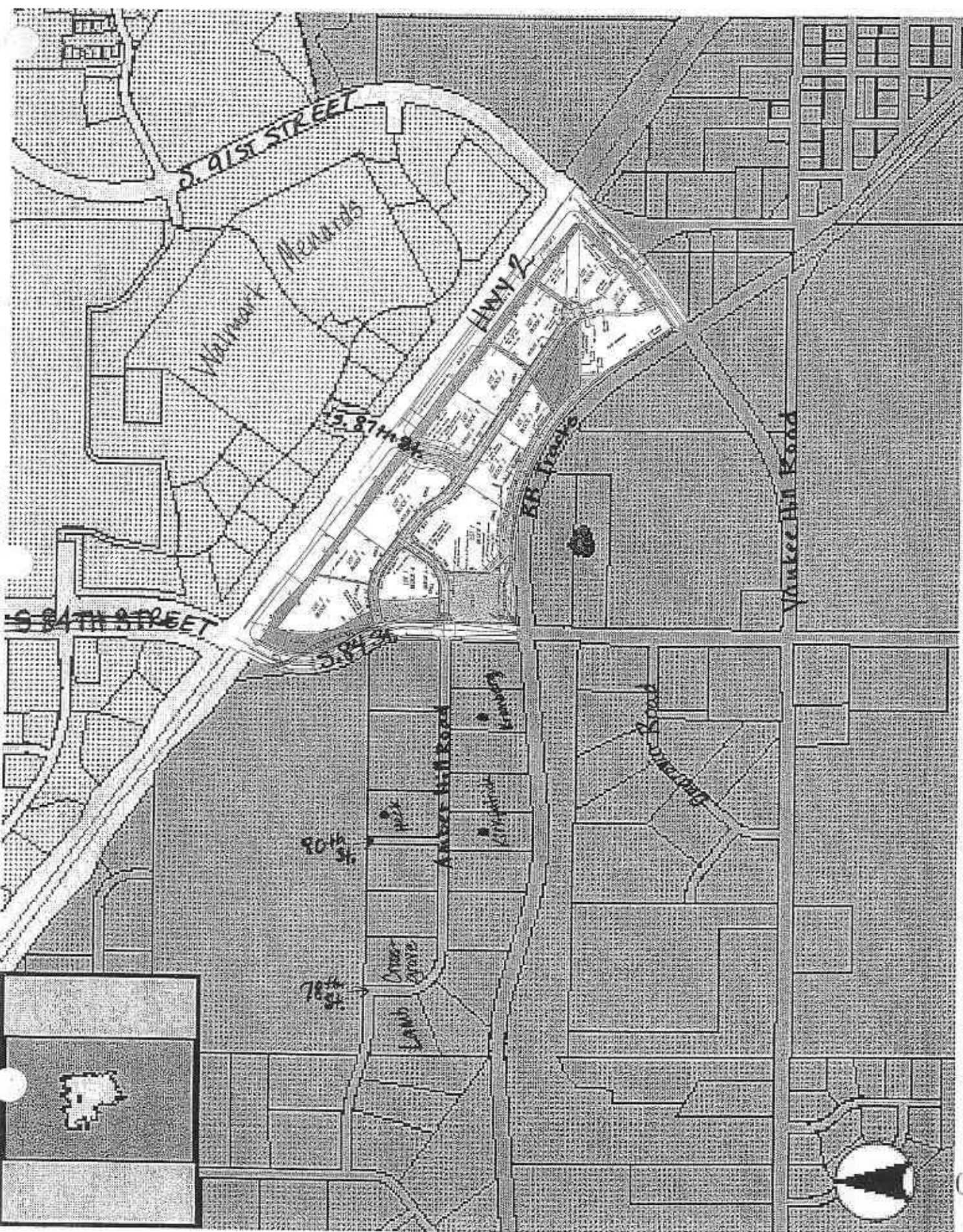
4 Story
58'



4 Story 49' to top of
parapet wall

024

(W)



SUBMITTED AT CONTINUED PUBLIC HEARING
BEFORE PLANNING COMMISSION: 11/10/04

We, the undersigned, oppose the request by Eiger Corp. for a waiver to the maximum height requirement of 40'. We request that the Planning Commission deny this request for a new 60' height maximum.

Print Name	Signed Name	Address
Tim Kirkpatrick	Tim Kirkpatrick	8001 Amber Hill Rd.
Deborah Johnson	Deborah Johnson	7935 Amber Hill Rd.
Dennis Crossgrove	Dennis Crossgrove	7800 Amber Hill Road
Jennifer Heck	Jennifer Heck	8000 South 80th St.
JAMES Heck	James Heck	8000 So. 80th St.
Russ Kromberg	Russ Kromberg	8201 Amber Hill Rd
JAYME GRUBER	Jayne Gruber	8101 AMBER HILL RD
Greg Wood	Greg Wood	7900 Amber Hill Rd
Lea Lamb	Lea Lamb	7901 S 78th St
Susan Kirkpatrick	Susan Kirkpatrick	8001 Amber Hill Rd
Arlean Crossgrove	Arlean E. Crossgrove	7800 Amber Hill Road
Colby Lamb	Colby A Lamb	7901 S. 78th ST
Hendi Haynes	Hendi Haynes	7801 Amberhill Road
Scott Haynes	Scott Haynes	7801 Amberhill Road
Mike St	Mike St	7911 South 78 St
Wanda Wood	Wanda Wood	7900 Amber Hill Rd
TERRY D HUTCHESON	Terry D Hutchison	8100 Amber Hill R
Kristy Kromberg	Kristy Kromberg	8201 Amber Hill Road



"Russ"
<russsk@neb.rr.com>

10/24/2004 01:36 PM

To: <plan@lincoln.ne.gov>
cc:
Subject: Use permit no. 150B

This email is in regards to the amendment to exceed the maximum height requirement. When this development was first proposed the developer stressed the fact that the size of the hotels would not exceed 40 feet. Earlier this year they made amendment to increase the size of the lot for the hotels and reduce the size of the gas station, which went through without opposition. Now the developer wants to increase the height of the hotels to 60 feet. I am very opposed to this and believe that the developer will keep applying for these amendments until they have opposition from the public. This is that opposition, we do not need a high rise hotel on the edge of Lincoln, these should be downtown.

Russ Kromberg
8201 Amber Hill Rd.
Lincoln, NE 68516
402-423-1344



littlelambs@inebraska.
com

10/27/2004 07:56 AM

To: plan@lincoln.ne.gov
cc:
Subject: opposition to Eiger Corp. Admendment

Dear Sir or Madam:

I am writing to oppose the requested Admendment to Use Permit No. 150A, Appian Way Regional Center Phase II Addition, to increase the height restriction from 40 to 60 feet. The B-5 zone restriction of 40 feet represents a reasonable limit and includes prior planning and input for successful and fitting long term development.

Sincerely,

Don Lamb
7901 S 78th Street
Lincoln, NE 68516



Dennis Crossgrove
<dcrossgrove@nebras
ka.edu>

To: pian@lincoln.ne.gov
cc:
Subject: Permit No. 150B

11/05/2004 02:42 PM

Planning Commission:

I am sending this document to indicate that I am in opposition to Permit # 150B (listed below).

November 10th, 2004

PERMITS:

4.3 Use Permit No. 150B(477 K) , an amendment to exceed the maximum height requirement in the B-5 Planned Regional Business District, on property generally located at S. 91st Street and Highway 2.
Planning staff recommendation: Conditional Approval
Staff Planner: Brian Will, 441-6362, bwill@lincoln.ne.gov

The proposal is to wave the maximum allowed height in the B-5 district from 40' to 60'. I am very concerned about the height of a building at this location and the effect it would have on my property in the Amber Hill Estates development to the west.

It is my understanding that the maximum height of a 60 foot building is determined by adding the wall height of the building plus the median of the height of the roof. If the roof (from wall to top of roof) is 20 feet and the wall height is 50 then the building could actually have a total height of 70 feet. The only building that I can find that would be close to 70 feet in south east Lincoln would be St. E's hospital.

Locating a 70 foot building on Lots 1,2 or 3 plus the elevation of these lots would make the appearance of such a structure (in comparison to surrounding structures) seem much larger than 70 feet. I believe that a 70 foot building would be very difficult to screen by using any vegetation grown in this state. On the other hand with a 40 foot height limit, many of our native trees could provide adequate screening and also this vegetation would allow 40 foot buildings to blend nicely into the adjacent residential areas.

Another reason why I oppose Permit # 150 B:
I do not know what the lighting standards would be in this case. But, if illuminated business signs are to be located on the top of a 70 foot building or placed on polls where the sign could actually be taller than the building. I believe, because of the sign height and the elevation of these lots that these signs would be visible from almost any residential property in the area. Speaking for myself, this type of light pollution would be very annoying and inconsistent the our acreage way of life.

Thank you.

Dennis Crossgrove
7800 Amber Hill Road



Tim Kirkpatrick
<TKIRKPATRICK@neb.
rr.com>

To: bwill@lincoln.ne.gov
cc: plan@lincoln.ne.gov
Subject: Use Permit #150B

11/08/2004 03:55 PM

Dear Brian,

I have reviewed the documents for the above mentioned use permit which will increase the height of certain buildings from 40' to 60'. I see that you have recommended approval by the Planning Commission when they take action on this.

I live in the existing residential neighborhood located directly west of this development. I do not feel that hotels of this height are a good transition from a heavy commercial area to adjacent area of single family homes. I would like you to reconsider your recommendation for Conditional Approval and instead recommend to Deny this amendment. Several Reasons:

1) Lighting.

The owner of a hotel property will most certainly use lights to illuminate their building. Unlike down lighting in commercial areas or street lighting where shields can be installed to protect residential neighbors these lights will be used to reflect light off of the building. That lighting will reflect into our neighborhood. One of these lots is on Amber Hill Road and I live on Amber Hill Road in direct sight of Lot 1. Lots two and three are also visible from my home but with some tree planting I can limit the view from a 40' building into my home.

2) Signage.

The owner of a hotel property will in all likelihood use a sign to advertise themselves and attract clients to their location. Logically they would do this at the highest point available on their building. Light from a sign on a 40' building is much easier for me to control than the same light located as much as 60' into the air.

3) Traffic.

Some months ago there were other land owners in the area who investigated the possibility of turning their land, also in this proximity, into commercial property. They were led to believe that this would not be allowed as the existing land use would take the planned roadways to their maximum capacity. I do not know who said this but I am certain that you have access to some traffic modeling studies that would either support the case for more commercial traffic or to leave the planned land use the way it is. In the event that the existing and planned roadways will not support more commercial land use, why would we change the land use on existing commercial property to allow for a higher density of traffic. The additional 20' height would allow for more hotel guests and also require the additional staff to support them on a 24/7/365 basis. This may not be what planners envisioned for existing and future users of these roads when those roads were planned.

4) Preservation of the SE entrance to Lincoln along NE Highway Two.

This has long (several decades that I know of) been a concern of all Planners who have had to deal with this issue. Planning has always

fought to make sure that this entrance to our city remains attractive and that the mistakes made on West "O" Street and Cornhusker Highway not be repeated. Over the years I have seen much street construction, commercial and residential development take place in this area. Allowing the Golden Arches (McDonalds) at 58th street and Wal*Mart on 91st were some of the most contested. Through it all I think that Planning has a done a good job of permitting this development in such away that the integrity of this approach has been preserved. What I am failing to see are buildings that are six stories in height which is what passage of this amendment would allow.

Please reconsider your position to increase any lots in this area from the allowable 40 foot height that already exists.

Thank you,

Tim Kirkpatrick
484-7500 w
423-9490 h



"Jim Heck"
<jheck@neb.rr.com>
11/09/2004 04:37 PM

To: <JWalker@ci.lincoln.ne.us>
cc: <bwill@lincoln.ne.gov>, <MKrout@ci.lincoln.ne.us>, <RHill@ci.lincoln.ne.us>, <Danay@sk-law.com>, <DBartels@ci.lincoln.ne.us>, "Tim Kirkpatrick" <tkirkpatrick@neb.rr.com>, "Dennis Crossgrove" <dcrossgrove@nebraska.edu>, "Greg Wood" <gwood@eacg.com>, "Lambs" <littlelambs@nebraska.com>, "McCowns" <Mitch2288@aol.com>, "Mike Schafer" <mschafer@neb.rr.com>, "Russ Kromberg" <rkromberg@neb.rr.com>, "Scott Haynes" <shaynes@neb.rr.com>, "Terry Hutcheson" <tdhutches@aol.com>, "John Wissink" <jwissink@neb.rr.com>, "Jay Gruber" <jaytam@alltel.net>
Subject: FW: Use Permit #150B - Opposition

Mr. Walker,

Jim and I wanted to let you know that we agree with Tim Kirkpatrick and Dennis Crossgroves' earlier emails addressed to you about Use Permit #1508 - Opposition.

James and Jennifer Heck

-----Original Message-----

From: Tim Kirkpatrick [mailto:TKIRKPATRICK@neb.rr.com]
Sent: Monday, November 08, 2004 6:18 PM
To: Scott Haynes; djohnson@updowntowners.org; Greg Wood; McCowns; Jheck@neb.rr.com; russwins@iwon.com; 'Jay Gruber'; Kromberg Kromberg'; mike schaffer; Dennis Crossgrove; susan.kirkpatrick@oidinc.com; 'John Wissink'; Jennifer Heck; Lambs
Subject: Fwd: Use Permit #150B - Opposition

Begin forwarded message:

<?color><?param 0000,0000,0000>**From:** <?/color>JWalker@ci.lincoln.ne.us
<?color><?param 0000,0000,0000>**Date:** <?/color>November 8, 2004 3:59:09 PM CST
<?color><?param 0000,0000,0000>**To:** <?/color>Tim Kirkpatrick
<TKIRKPATRICK@neb.rr.com>
<?color><?param 0000,0000,0000>**Cc:** <?/color>bwill@lincoln.ne.gov,
MKrout@ci.lincoln.ne.us, RHill@ci.lincoln.ne.us, Danay@sk-law.com,
DBartels@ci.lincoln.ne.us
<?color><?param 0000,0000,0000>**Subject:** <?/color>Re: Use Permit #150B - Opposition

Dear Mr. Kirkpatrick:



"Susan Kirkpatrick"
<susan.kirkpatrick@oi
dinc.com>

11/09/2004 08:31 AM

To: <JWalker@ci.lincoln.ne.us>
cc: <MKrout@ci.lincoln.ne.us>, <RHill@ci.lincoln.ne.us>,
<BWill@ci.lincoln.ne.us>, <DBartels@ci.lincoln.ne.us>
Subject: FW: Permit No. 150B - Opposition

Subject: Permit No. 150B - Opposition

November 9, 2004

From: Susan Kirkpatrick, Homeowner - 8001 Amber Hill Road, Lincoln, NE,
Located directly West of this Development

To: Planning Commission Officials and Planning Staff: Mary Bills-Strand Chair,
Jon Carlson Vice-Chair, Eugene Carroll, Roger Larson, Dan Marvin, Melinda
Pearson, Lynn Sunderman, Tommy Taylor, Gerry Krieser, Ray Hill, Marvin
Krout, Brian Will, Dan Bartels

Please note from the following that I am adamantly opposed to the request for a
height waiver, as related to Permit # 150B (listed below).

PERMITS:

4.3 Use Permit No. 150B(477 K) , an amendment to exceed the maximum
height requirement in the B-5

Planned Regional Business District, on property generally
located at S. 91st Street and Highway 2.

Planning staff recommendation: Conditional Approval

Staff Planner: Brian Will, 441-6362, bwill@lincoln.ne.gov

The proposal is to waive the maximum allowed height in the B-5 district from 40'
to 60'.

In a recent neighborhood meeting Nov. 4, 2004 with Denay Kalkowski, who is
representing the developer Calvin Korver for the wavier, she spelled out what the
actual language of this waiver could mean. It really means that a building within
the 40 foot design standard now in place, could be a 50 foot building. The actual
height is determined by wall height plus a mean of the roof line. Already, the
buildings on these lots could easily reach 50 feet in height. The area is not
conducive to this sort of towering height. No where in south Lincoln could I
research a building that had this sort of height waiver for a hotel. In fact, nowhere
along even North 27th Street, (Hotel alley); could I find this sort of building
height. Denay also could not site an example when asked at our meeting.

There has been a good deal of planning already on this site by Planning Commissioners, Planning Staff, County Commissioners, City Council, etc. The surrounding neighbors have not so far opposed any of the tremendous amount of change to the rural nature of their properties in this area due to this huge commercial endeavor. However, I feel it is time that the developer steps up and becomes the good neighbor these property owners have been. And that he stay within the limits of the B-5 Zoning he applied for and that was initially approved. I have checked into the Hampton Suites, the nearest hotel. It is a 3 story building, measuring 30' plus the roof. Denay K. could not site any other buildings in the area that had received a waiver on the height except The Nebraska Heart Institute that went from 35 feet to 44 feet, and the Westgate Bank Building, which is on a site a good deal lower than this site, and includes a tall lighting rod and clock tower.

In fact, the area around this site is called Yankee Hill Road for a reason. The property is at or near some of the highest elevation property in all of Lancaster County. (Thus the number of Antenna Towers along this ridge) . We request that you deny this change in height restriction. Perhaps suggest that the two Hotels spilt the small parcel known as Lot 2, and spread the needed square footage, (if necessary) horizontally, instead of approving this overpowering vertical height. Thank you for your consideration.

Susan Kirkpatrick, Home Owner - 8001 Amber Hill Road, Lincoln, NE phone: 423-9490.